

June 30, 2008

**OFFICE OF THE HEARING EXAMINER  
CITY OF RENTON**

**Minutes**

OWNER: Kushal Varma & Kajal Ram  
1042 Smith Way  
Folsom, CA 95630

CONTACT: Tom Touma  
Touma Engineers & Land Surveyors  
6632 S 191<sup>st</sup> Place, Ste. E-102  
Kent, WA 98032

Ram Short Plat  
LUA-07-140, SHPL-H, ECF

LOCATION: 3619 Queen Ave NE

SUMMARY OF REQUEST: Hearing Examiner Short Plat approval for subdivision of a 44,503 square foot site into six building lots located in the R-8 zone.

SUMMARY OF ACTION: Development Services Recommendation: Approve subject to conditions.

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on April 15, 2008.

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

**MINUTES**

*The following minutes are a summary of the April 22, 2008 hearing.  
The legal record is recorded on CD.*

The hearing opened on Tuesday, April 22, 2008, at 9:01 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<b><u>Exhibit No. 1:</u></b> Yellow file containing the original application, reports, staff comments, proof of posting, proof of publication and other documentation pertinent to this request.	<b><u>Exhibit No. 2:</u></b> Zoning Map
<b><u>Exhibit No. 3:</u></b> Preliminary Short Plat Plan	<b><u>Exhibit No. 4:</u></b> Tree Retention/Utility/Grading Plan

<b><u>Exhibit No. 5:</u></b> Conceptual Landscape Plan	<b><u>Exhibit No. 6:</u></b> Letter from Neighboring Property Owners.
<b><u>Exhibit No. 7:</u></b> Revised Tree Retention Plan	

The hearing opened with a presentation of the staff report by Rocale Timmons, Associate Planner, Development Services, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The site is located on the SW corner of NE 6<sup>th</sup> Street and Queen Avenue NE, west of the Village on Union (a single family detached preliminary plat in the R-10 zoning designation). The rest of the surrounding area is comprised of single-family detached homes in the R-8 zoning designation.

The proposal is for a six-lot short plat on one parcel totaling 1.02 acres in size, after a deduction for right-of-way the six lots would result in a net density of 7.48 dwelling units per net acre.

There is an existing house on site that would be removed, all lots range in size from 5,060 square feet to 6,900 square feet. All lots would have access to NE 6<sup>th</sup> Street or Queen Avenue NE. The site is vegetated with approximately 45 trees, the applicant proposes to remove all 45 trees.

The Environmental Review Committee issued a Determination of Non-Significance – Mitigated, including 1 mitigation measure. No appeals were filed.

The site is located in the Residential Single-Family Comprehensive Plan designation and complies with all goals and policies established within this designation. The proposed lots appear to meet all front, rear and side yard setbacks

Of the 45 trees, 9 are deciduous and 36 evergreen, none are proposed to remain. An initial tree retention plan was submitted and after a staff site visit, it was obvious that several trees were not depicted on the plan and a revised plan was requested. Based on the revised tree cutting plan, the reason why some cannot be retained is due to a drainage easement on the westerly border of the property of 25-feet for both a sewer and drainage easement. There can be no trees along that easement. There are six trees in the public right-of-way, which would be excluded from the count for retention, which results in 39 trees, leaving 12 protected trees that must remain. Due to the difficulty to accommodate the 6:1 ratio for those 12 trees (72 trees) staff recommended that they employ an arborist to designate what trees could possibly be retained on site.

The applicant would be required to submit a revised tree retention plan prior to utility construction depicting any additional trees as determined by the arborist to be retained as well as replacement trees to mitigate protected trees not retained.

The landscape plan includes 5-feet of landscaping along NE 6<sup>th</sup> Street and Queen Avenue NE and two trees within the front yards of each lot.

There currently is a partially improved right-of-way along the front of the site, the applicant is required to dedicate 25-feet in width along NE 6<sup>th</sup> Street and 20-feet in width along Queen Avenue NE for half street improvements including curb, gutter and sidewalk.

The topography is relatively flat with average grades of 5-6 percent. Surface water on site will flow to the west and south into an underground storm system located along the western portion of the property and then on to Queen Avenue NE.

Transportation, Park and Fire Mitigation fees are required for this project.

The project is located within the Renton School District and they have indicated that they can accommodate any new additional students.

The site is within the City of Renton Water and Sewer District and there are 8-inch, 10-inch, and 12-inch water mains adjacent to the site. There also is an 8-inch sanitary sewer main just south of the site, which would need to be extended to serve the new lots.

Tom Touma, 6632 S 191<sup>st</sup> Place, Ste. E-102, Kent, WA 98032 stated that the easement along the western portion of the property is to serve the extension of the sanitary sewer. The topography is oriented from east to west and the lowest is on the west side along the southwest area, a swale within that easement would connect to the existing storm system on Queen Avenue NE.

They will work with staff on the tree retention issue and will have an arborist to determine the number of trees to retain.

The Examiner stated that he would need the results from the arborist before allowing the plat to continue. It may be appropriate to actually reduce the number of lots to five, and give each lot more room to protect and preserve some of the trees.

Kayren Kittrick, Development Services stated that they must dedicate the road since they are picking up the last sections of Queen and 6<sup>th</sup> at this intersection.

Drainage is set up for a swale for water quality because they did not have to do retention or detention. It is City owned sewer and water and the sewer does come in at the lower southwestern corner.

The Examiner noted that the hearing would remain open for the submission of the arborist's report. The arborist would be chosen from a list provided by the City. Depending on what the report indicates, the Examiner might re-open the hearing in order to deal with a five or six lot plat, or there may be no problem with the site at all.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 9:32 a.m.

### **FINDINGS, CONCLUSIONS & RECOMMENDATION**

Having reviewed the record in this matter, the Examiner now makes and enters the following:

#### **FINDINGS:**

1. The applicant, Kursal Varma and Kajal Ram, filed a request for a Six-lot Short Plat.
2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. The Environmental Review Committee (ERC), the City's responsible official issued a Determination of Non-Significance - Mitigated (DNS-M).
4. The subject proposal was reviewed by all departments with an interest in the matter.

5. The subject site is located at 3619 Queen Avenue NE. The subject site is located on the southwest corner of the intersection of Queen Avenue and NE 6th Street.
6. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of detached single-family homes, but does not mandate such development without consideration of other policies of the Plan.
7. The subject site is currently zoned R-8 (Single Family - 8 dwelling units/acre).
8. The subject site was annexed to the City with the adoption of Ordinance 1480 enacted in April 1954.
9. The subject site is approximately 1.02 acres or 44,503 square feet. The subject site is approximately 303.85 feet long by 115.61 feet wide.
10. The subject site has a grade change of approximately 5 to 6 percent, which is relatively level. There are no critical areas on the subject site.
11. An existing home will be removed if the plat is approved
12. The applicant proposes dividing the subject site into six lots. Proposed Lot 1 would be a corner lot on the southwest corner of NE 6th Street and Queen Avenue NE. Proposed Lot 2 would be west of Lot 1 along NE 6th. Proposed Lots 3 to 6 would be aligned north to south along the west side of Queen Avenue NE. Proposed Lots 1 and 2 would be oriented to the north or NE 6th Street. The remaining four lots would be oriented east to Queen Avenue.
13. A revised tree survey indicated that there are 45 trees or 39 significant trees. Code requires the retention of 30 percent of the trees or in this case 12 trees. Staff recommended that trees be retained on Proposed Lots 4 and 5 along with the one proposed on Lot 6. At the public hearing the examiner noted that accurate tree counts were necessary in order to decide how the subject site should be divided. The hearing was held open for a new, independent survey.
14. The new tree survey indicated that while some trees could be preserved, some would be affected by home construction, which includes the construction of homes, driveways and sidewalks. Specifically, the "critical root zone" would be affected by such construction and could jeopardize the trees and ultimately public safety if the trees fail. Staff reviewed the new survey and found that eight (8) trees could be protected along the margins of Proposed Lots 4, 5 and 6 with a reduction in home footprints. Staff further recommended that the applicant be required to retain 4 additional trees or place additional trees at 12-inch caliper for those 4 trees.
15. Both of the streets adjacent to the plat are substandard. Staff recommended that the applicant dedicate 25-feet along NE 6th Street and 20-feet along Queen Avenue NE to accommodate the widening of those streets and the traffic demands of the proposal.
16. The density for the plat would be 7.48 dwelling units per acre after subtracting approximately 9,581 square feet for roads. If the preservation or replanting of trees requires a five-lot plat, the density would be approximately 6.2 units per acre.
17. The subject site is located within the Renton School District. The project is expected to generate approximately 2 or 3 school age children. These students would be spread across the grades and would be assigned on a space available basis.

18. The development will generate approximately 10 trips per unit or approximately 60 trips for the 6 single-family homes. Since there is an existing home, traffic would be increased by approximately 50 trips and approximately ten percent of the trips, or approximately 5 additional peak hour trips will be generated in the morning and evening.
19. Stormwater will be collected along the western edge of the plat but conveyed back toward the east and Queen Avenue. Calculations show that detention is not required.
20. Sewer and water will be provided by the City and are available for servicing the new homes.
21. The City has adopted mitigation fees for transportation improvements, fire services and parks and recreational needs based on an analysis of the needs and costs of those services. These fees are applied to new development to help offset the impacts new homes and residents have on the existing community and the additional demand for services.

#### **CONCLUSIONS:**

1. The proposed plat generally appears to serve the public use and interest. The difficulty this plat runs into is that the retention of significant trees or the replacement of trees constrains the development potential of the site. The platting standards and density requirements can seem counter-productive to either preserving trees or replacing trees. Building footprints along with access driveways, new sidewalks and detention swales all serve to limit the number of trees that can be retained or the areas in which they can be replanted. As independent arborist noted that preparing the site for homes and installing foundations will jeopardize the critical root zones of many of the trees and therefore, the health of retained trees.
2. Staff has recommended that the applicant reduce the footprint of some of the homes to protect the critical root zone of retained trees. This could result in smaller homes. The other option might be to reduce the number of lots, which could result in roomier building parcels that could accommodate larger homes but that might spare some of the significant trees. Both options result in tradeoffs but the ordinance clearly requires protecting trees or planting trees when preservation will not work. The reduction in home size achieves the maximum density while a reduction in the number of lots would reduce the density although it would still meet code requirements. In order to allow the applicant to develop a six-lot plat the applicant will have to demonstrate that the proposed plat can comply with the City's tree preservation regulations. If appropriate preservation cannot be achieved the applicant will be required to reduce the plat to a five-lot plat.
3. The development of five new lots will increase the demands on the City's parks, roads and emergency services. The applicant shall therefore help offset those impacts by providing mitigation that matches the fees established by the City.
4. Developing the plat will create additional choices for those seeking single-family homes in Renton. The proposed plat is in an area in which urban services are available. The plat will also increase the tax base of the City to help offset some of impacts, which are not specifically addressed by the mitigation fees.
5. The applicant shall dedicate 25-feet along NE 6th Street and 20-feet along Queen Avenue NE to accommodate the demands of the plat's new residents.

6. In conclusion, the division of the subject site into additional lots is appropriate but must be balanced against the City's tree preservation regulations. As long as tree protection can meet the City's objectives, the full density of the plat can be achieved. But if those protection objectives cannot be satisfied a plat with fewer lots would still meet the density objectives.

**DECISION:**

The proposed Short Plat is approved subject to the following conditions:

1. The applicant shall comply with the ERC conditions.
2. The applicant shall conclusively demonstrate the a six-plat can meet all of the City's tree preservation or replanting requirements prior to recording the short plat or the plat shall be reduced to a five-lot plat.
3. The applicant shall dedicate 25-feet along NE 6th Street and 20-feet along Queen Avenue NE.

ORDERED THIS 30<sup>th</sup> day of June 2008

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FRED J. KAUFMAN  
HEARING EXAMINER

(Parties of Record and attached exhibits may be view in the City Clerk's office along with the official report)

TRANSMITTED THIS 30<sup>th</sup> day of June 2008 to the following:

Mayor Denis Law	Dave Pargas, Fire
Jay Covington, Chief Administrative Officer	Larry Meckling, Building Official
Julia Medzegian, Council Liaison	Planning Commission
Gregg Zimmerman, PBPW Administrator	Transportation Division
Alex Pietsch, Economic Development	Utilities Division
Jennifer Henning, Development Services	Neil Watts, Development Services
Stacy Tucker, Development Services	Janet Conklin, Development Services
Marty Wine, Assistant CAO	Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100G of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., July 14, 2008.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., July 14, 2008.**

**If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.**

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.